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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,437	04/11/2001	Marc Alaia	ARIBP017C1	3808
21912 7590 05/28/2008 VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014				
EXAMINER				
MILEF, ELDA G				
ART UNIT		PAPER NUMBER		
3692				
MAIL DATE		DELIVERY MODE		
05/28/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## **DETAILED ACTION**

### ***Response to Amendment***

The proposed amendment filed on 5/15/2008 under 37 CFR 1.312 has not been entered for the following reasons:

- When a benefit claim is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application unless an incorporation by reference statement of the prior application was presented upon filing of the application. See *Dart Indus. v. Banner*, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980).- See MPEP §201.11 (F).
- If a benefit claim is added after the time period required by 37 CFR 1.78(a), a petition and the surcharge are required. -See MPEP §201.11 (F).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday -Friday 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be

reached on (571)272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kambiz Abdi/  
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